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In the absence
of federal funding

In the Absence of Federal Funding: The 1997-98 Activities of the Subcommittee on Welfare and Child Support Enforcement Programs

A Report to the 56th Legislature

October 1998

Prepared by
Montana Legislative Services Division
State Capitol, Room 138
Helena, Montana 59620

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David Niss, Attorney
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Montana Legislative Council
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Montana Legislative Services Division
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EXECUTIVE SUMMARY

SUBCOMMITTEE CHARGE

In July of 1997, the Legislative Council authorized the establishment of an interim subcommittee to explore options for operating welfare and child support enforcement programs from state-only revenue sources and without federal funding. This action was in response to the difficult passage of Senate Bill No. 374 (Chapter 552, Laws of 1997) during the 1997 legislative session and the possibility that those provisions of SB 374 that sunset on July 1, 1999, will not be reenacted. Absent the reenactment of those provisions, Montana will be in jeopardy of losing its federal Temporary Assistance to Needy Families block grant as well as the federal funding for its child support enforcement program.

SUBCOMMITTEE ACTIVITIES

The Subcommittee on Welfare and Child Support Enforcement Programs was appointed in the fall of 1997. From December 1997 through April 1998, the Subcommittee held four meetings and two public hearings, including a METNET video conference. The dates of the meetings and hearings were as follows:

December 9, 1997	Subcommittee Meeting
January 27, 1998	Subcommittee Meeting
March 11, 1998	Subcommittee Meeting
April 21, 1998	Public Hearing
April 21, 1998	Public Hearing (METNET)
April 22, 1998	Subcommittee Meeting

At its first meeting, the Subcommittee chose to focus its efforts on exploring the options for operating a welfare program and a child support enforcement program with state funding only. While there was an interest on the part of some members of the Subcommittee in reviewing the progress of welfare reform in Montana and evaluating the effectiveness of the Families Achieving Independence in Montana program, the Subcommittee as a whole felt that such a review was beyond the purview of the Subcommittee. Therefore, the Subcommittee chose to

concentrate its efforts on proposing options for the 1999 Legislature to consider should the Legislature not renew the contested provisions of Senate Bill No. 374.

SUBCOMMITTEE RECOMMENDATIONS

As a result of its deliberations, the Subcommittee voted to support lifting the termination date on the contested provisions of Senate Bill No. 374 from which the state had not received an exemption. Those contested provisions are:

- ◆ the establishment of a Directory of New Hires;
- ◆ the automated access to financial records;
- ◆ the requirement to provide Social Security numbers on applications for a professional or occupational license, a marriage license, and a commercial driver's license; and
- ◆ the requirement to provide Social Security numbers on a decree of dissolution, a child support order, and a paternity determination.

The Subcommittee also decided to present to the 1999 Legislature the options for state-funded welfare and child support enforcement programs but without a recommendation.

SUBCOMMITTEE CHARGE

WELFARE REFORM

During the 1992 presidential campaign, then-presidential candidate Bill Clinton promised to "end welfare as we know it". His goal was to completely restructure the federal welfare system that President Franklin D. Roosevelt had established during the early days of the New Deal. Over the years, federal public assistance programs underwent changes and alterations, but the basic premise remained the same: to guarantee a level of financial support for all eligible low-income mothers and children. However, this federal guarantee spawned expensive governmental welfare programs that worked at cross-purposes to the traditional values of self-sufficiency, personal responsibility, family stability, and caring for people in need. All across the nation, state governments became increasingly frustrated with the federal welfare system and began to overhaul their own state programs to better reflect their vision of what a welfare system can and should do. Montana was one of those states.

On July 23, 1993, Governor Marc Racicot issued Executive Order No. 12-93, directing a welfare advisory council to "develop a comprehensive welfare reform proposal that will meet the basic needs of recipients and provide the resources necessary to maximize each recipient's opportunity to achieve independence of the welfare system". Over the next 8 months, this 23-member advisory council, representing a bipartisan cross-section of Montanans interested in welfare reform, met, heard testimony, received recommendations, analyzed data, reviewed similar initiatives in other states, synthesized all of the information received, and produced a final report for gubernatorial approval in February 1994. The final report recommended a comprehensive welfare reform initiative to replace the Aid to Families with Dependent Children program (AFDC). This initiative was called Families Achieving Independence in Montana or FAIM.

Because the FAIM program was changing the focus of the AFDC program from check-receiving to achieving self-sufficiency, Montana had to request waivers from the federal government before implementation could occur. The formal request was made in April 1994. In addition, implementation required statutory

changes that had to be made by the Legislature in 1995. On April 15, 1995, Governor Racicot signed the Montana Welfare Reform Act into law. A few days later, the necessary federal approvals were received from the Department of Health and Human Services. FAIM implementation began on February 1, 1996, in nine Montana counties. By March 1997, all 56 counties were participating.

At the federal level, both President Clinton and the U.S. Congress were also wrestling with welfare reform. Two efforts put forth by the Republican-controlled Congress, House Resolution No. 2491 and House Resolution No. 4, were vetoed by the President in late 1995. Efforts to reform welfare appeared lost at the beginning of 1996, but through the efforts of the National Governors' Association, prospects for reform were revitalized. After extensive maneuvering by both Republicans and Democrats with respect to changes in Medicaid, a compromise was finally reached. On August 22, 1996, President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). This new law ends the 61-year-old guarantee of providing welfare checks to all eligible low-income mothers and children. Federal funding will be sent to the states in the form of block grants called Temporary Assistance to Needy Families (TANF). States, in turn, will have almost complete control over eligibility and benefits, although some federal restrictions will apply: a work requirement for welfare recipients and a time limit for receiving benefits.

However, while giving states greater flexibility in designing public assistance programs, PRWORA also imposed significant requirements on state child support enforcement programs. Receipt of the federal block grant funds for state welfare and state child support enforcement programs was contingent upon states enacting these federal child support enforcement requirements. Failure to enact the requirements would result in the forfeiture of the federal funds.

SENATE BILL NO. 374

In order to comply with the federal requirements and to access the federal welfare and child support enforcement funds, Senator Don Hargrove introduced Senate Bill No. 374 during the 1997 legislative session. SB 374 was met with a maelstrom of controversy. Many legislators expressed incredulity that the U.S. Congress supported these provisions. They accused Congress of extortion in forcing states to enact these provisions in order to receive federal funds. They

decried the intrusiveness into people's personal lives and the utter disregard for state sovereignty. The requirements that some legislators found particularly onerous were:

- ▶ a centralized registry of new hire information, including requiring employers to report new hires to the state within 20 days of the date of hire, that will upload the information to a federal data base;
- ▶ collection of Social Security numbers on applications for professional and occupational licenses and commercial driver's licenses; on death certificates; and on records pertaining to divorce decrees, child custody, and paternity determinations;
- ▶ elimination of a jury trial for paternity cases, even if state constitutional change is required; and
- ▶ matching databases of delinquent parents against customer records of financial institutions.

The bill was heavily amended as it made its tortuous route through the Montana Legislature. After three free conference committee reports, four failed second reading votes in the House of Representatives, and much debate and acrimony, SB 374 was the final bill passed by the Legislature in the last hours of the last day of the 55th legislative session. However, the final bill contained several new provisions. The legislators wanted to ensure that if Congress or the courts were to amend, repeal, or invalidate any or all of the most controversial requirements, then the corresponding sections of SB 374 would almost immediately terminate. In the meantime, the Department of Public Health and Human Services (DPHHS) was directed to seek exemptions from the requirements. As a spur to the DPHHS, a termination date of July 1, 1999, was added to the bill.

Immediately following the conclusion of the legislative session, Governor Marc Racicot wrote to the members of the Montana congressional delegation informing them of the controversial enactment of SB 374 and asking their support in repealing or softening the specific areas of controversy, easing the exemption criteria, and uncoupling compliance from federal funding. The Governor also expressed concern over two additional requirements that were then being debated by Congress: to include Social Security numbers on applications for personal driver's licenses and for all recreational licenses. (These additional

requirements were ultimately included in the Balanced Budget Act of 1997 and will have to be enacted by Montana in 1999.)

Senators Max Baucus and Conrad Burns agreed in the spring of 1998 to introduce legislation that would delete information from the database maintained by the National Directory of New Hires 24 months after the date of entry for people found to be delinquent in their child support payments and 12 months after the date of entry for everyone else. In addition, the new legislation will impose penalties for any misuse of the information contained in the National Directory of New Hires.¹

In 1999, the Montana Legislature will again face most of the controversial provisions of SB 374. Moreover, there will be the addition of the new requirements.

SUBCOMMITTEE ON WELFARE AND CHILD SUPPORT ENFORCEMENT PROGRAMS

At the May 19, 1997, meeting of the Legislative Council, Speaker of the House John Mercer proposed an interim study to examine child support and welfare issues. His concern centered on the possibility that the provisions in SB 374 would terminate in 1999 and not be renewed by the 1999 Legislature. If that were to happen, Montana's welfare system and child support enforcement program would have to be completely revamped to accommodate the loss of federal funds. Speaker Mercer suggested that a welfare reform study should:

- (1) examine the waiver system that allows states to design welfare systems that differ from the federal requirements;
- (2) evaluate the FAIM program to determine its effectiveness;
- (3) review the compliance requirements of the federal government, especially in the area of child support enforcement;

¹The legislation was included in the Child Support Performance and Incentive Act (P.L. 105-200). The effective date is October 1, 2000.

- (4) monitor congressional changes to welfare reform and child support enforcement; and
- (5) prepare for the possibility that the provisions of SB 374 will not be reenacted by the 56th Legislature.

On July 19, 1997, the Legislative Council authorized the establishment of a subcommittee to prepare proposals for implementing a state public assistance program and for maintaining and increasing the effectiveness of the state child support enforcement system in the absence of federal funding.

ISSUES AND OPTIONS

ISSUES

During its deliberations, the Subcommittee on Welfare and Child Support Enforcement Programs identified certain issues that it felt were important for the Subcommittee to pursue in the furtherance of its objectives. The Subcommittee believed that it was important for the 1999 Legislature to know exactly how much federal funding would be lost to the state if the Legislature chose not to renew the provisions of SB 374. In addition, the Subcommittee was adamant that the Department of Public Health and Human Services (DPHHS) vigorously pursue the request for exemptions as directed by the 1997 Legislature. The Subcommittee was also concerned about the impacts of its deliberations on Montana's Indian population. In Montana, roughly 20% of the welfare caseload is American Indian. Indian reservations are economically depressed, and employment opportunities are scarce. Indian welfare recipients would be particularly hard-hit by the loss of federal TANF funds to the state.

Funding

One of the most cogent arguments used by the proponents in securing the passage of SB 374 was the potential loss of federal funding, not only for child support enforcement but for welfare reform as well. TANF funding forms the backbone of the FAIM program. This potential loss of funding was the incentive for the creation of the Subcommittee. For this reason, one of the first tasks of the Subcommittee was to request a report from the Legislative Fiscal Division, summarizing the state and federal resources appropriated by the 1997 Legislature to the DPHHS for the state welfare and child support enforcement programs.

The Child Support Enforcement Division (CSED) of the DPHHS is operating with a budget of about \$20 million for the 1999 biennium. Of that amount, roughly 66% is funded from federal special revenues, 33.5% from state special revenues, and .04% from the state general fund (one-time only appropriation for a special project with the Missoula District Court). Of the state special revenue amount, approximately 43% is federal incentive payments received by the state based on

the amount of child support collected by CSED. Therefore, of the total \$20 million, about \$16 million comes from the federal government. These federal funds not only support the activities of the CSED, they are also used to support the SEARCHS computer system in the Operations and Technology Division (OTD) and to provide indirect support to OTD and the Director's Office. Should the loss of federal funding occur because of the Legislature's failure to enact the required child support enforcement provisions in 1999, the CSED will see its budget decrease by about 80%.

Montana's welfare program, FAIM, is funded from both state and federal funds. The federal funds come from the TANF block grant while the state funds come from the general fund and reimbursement from nonassumed counties.² The PRWORA requires that states annually maintain fiscal effort at a minimum of 80% of the level expended by the state for welfare in fiscal year 1994. The Montana Legislature appropriated funds at approximately 83% of the required maintenance of effort. The TANF block grant and the state funds pay for cash assistance; client support and other services; and administration, operations, and case management services. For the 1999 biennium, total funding for the welfare program amounts to \$121.4 million, excluding child-care funding. Of this amount, \$89.3 million, or 73.5%, comes from the federal TANF block grant. Loss of federal funding for the FAIM program would result in a welfare program funded at about 26.5% of the current budget.

Exemptions

Even though the federal government imposed numerous regulations on the states regarding child support enforcement, the government also allowed states to seek exemptions from the regulations if the state could demonstrate that the regulations would not increase the effectiveness and efficiency of the state child support enforcement program or if the state already has a procedure that may not fully comply with the regulation, but the state can show that implementation of the regulation would not increase the effectiveness or efficiency of the program. The DPHHS was directed by the Legislature to seek exemptions from the federal government for four of the child support enforcement provisions imposed by the federal welfare reform law. The four provisions were:

²A nonassumed county is a county that has not transferred its responsibility for providing public assistance and child protective services to the Department of Public Health and Human Services.

- ▶ a centralized registry of new hire information, including requiring employers to report new hires to the state within 20 days of the date of hire, that will upload the information to a federal database;
- ▶ collection of Social Security numbers on applications for professional and occupational licenses and commercial driver's licenses; on death certificates; and on records pertaining to divorce decrees, child custody, and paternity acknowledgments;
- ▶ elimination of a jury trial for paternity cases, even if state constitutional change is required; and
- ▶ matching databases of delinquent parents against customer records of financial institutions.

In September of 1997, the DPHHS submitted its first request for an exemption. It was for the requirement that a state enact a law that excludes the right to a jury trial in actions to establish paternity. Montana based its request on the fact that in Montana, paternity proceedings are considered equity actions, and there is no general right to a jury trial in equity actions. Montana already excluded jury trials in paternity proceedings and, therefore, there was no need for Montana to enact a specific law expressly excluding paternity jury trials. The federal Department of Health and Human Services agreed, and the exemption was granted.

In January and February of 1998, the DPHHS submitted its next two requests. These requests pertained to the requirement for Social Security numbers (SSN) on death certificates; for SSNs on applications for professional and occupational licenses, driver's licenses, recreational licenses, and marriage licenses; and for SSNs on records relating to divorce decrees, support orders, and paternity determinations. The federal Department of Health and Human Services accepted the state's argument that the recording of the SSN on a death certificate would not enhance the effectiveness and efficiency of the child support enforcement program and so granted the exemption. The DPHHS based its request for the other exemptions relating to the use of SSNs mainly on the issue of conflicting federal laws. The DPHHS argued that another provision of the Social Security Act that was not amended by PRWORA specifically states the instances in which it is permissible to ask for SSNs and protects their confidentiality. However, the federal Department of Health and Human Services denied the request for exemption, stating that the congressional directives to

require SSNs on certain license applications and records were clear and unambiguous and the Department of Health and Human Services had no authority to ignore those directives.

The final provisions that the Legislature directed the DPHHS to seek exemptions from are the new hire registry and the financial institution data match. The DPHHS has requested the exemptions, but expects to receive denials on both requests because the new hire registry and the financial institution data match have proven to be extremely effective tools in child support enforcement.

Welfare Reform and Indian Tribes

When Montana implemented its FAIM program in February of 1996, the Indian tribes, with the exception of the Fort Belknap Tribe, were given the option of participating in the state program or continuing to operate public assistance grant programs under the then existent guidelines. The Fort Belknap Tribe was not given the option because it did not operate its own tribal Job Opportunities and Basic Skills (JOBS) program. The remaining six tribes chose to continue to operate under the old rules. However, with the passage of PRWORA in August of 1996, all Indian tribes were required to actively participate in some type of welfare reform by operating their own TANF program or by participating in the state TANF program. In Montana, the six remaining tribes chose to participate in the state program. However, because FAIM/TANF had been crafted with minimal tribal input due to federal requirements and short federal time limits, the program was not well understood, and many Indian public assistance recipients were ill-prepared for the new requirements. In order to mitigate these problems, the 1997 Legislature appropriated money to the DPHHS to be used to assist Indian tribes to transition to FAIM. Since that time, the DPHHS has made a concerted effort to work with tribes in creating individualized tribal welfare reform plans.

Indian tribes are also eligible to apply for funding to administer and operate their own TANF programs. Tribes must submit a 3-year tribal TANF plan to the Secretary of the federal Department of Health and Human Services for review and approval. The Secretary establishes for each tribe that submits a plan the minimum work participation requirements, appropriate time limits for the receipt of welfare-related services, and the penalties against individuals that are consistent with the economic conditions and resources available to each tribe and with the purposes of the law. Once an Indian tribe has an approved TANF plan, the tribe will receive funding equal to the federal share of all expenditures (other than child

care) by the state under the AFDC program and the JOBS program for fiscal year 1994 for Indian families residing in the service area identified in the tribal TANF plan. The formula used to determine tribal TANF funding includes only federal payments; the state match of those federal dollars would not be guaranteed but would be determined legislatively. This means that a tribe operating its own TANF program may have less money to help its members than if the tribe remained on the state TANF program. Once a tribe has an approved TANF plan, the state's TANF grant will be reduced, and the state is no longer obligated to expend state funds on behalf of eligible families served by the tribal TANF program. However, states can contribute state funds to a tribe with an approved TANF plan for certain allowable activities and for families that meet the state's TANF income and resource standards. A state's contribution to an Indian tribe for use in the tribe's TANF program should be spelled out in an negotiated agreement between the state and the tribe if not determined statutorily.

In Montana, the Confederated Salish and Kootenai Tribes are currently working on a tribal TANF plan with an implementation date of January 1999. Other Montana tribes have discussed the possibility of operating their own TANF programs but have opted to stay with the state program because of the loss of funding that could occur. If the Confederated Salish and Kootenai are successful in having their plan approved and in negotiating a contribution from the state, other tribes may follow suit.

If Montana chooses to forego the federal TANF block grant and to fully fund a welfare program with state money, it would probably be in a tribe's best interests to operate its own TANF program, contract with another tribe to operate its program, or form a consortium of tribes to operate a single program.

OPTIONS

After reviewing the issues of funding, exemptions, and tribal welfare reform, the Subcommittee, on January 27, 1998, directed the Child Support Enforcement Division (CSED) and the Child and Family Services Division of the DPHHS to report back to the Subcommittee on the possible impacts of the loss of federal funding and with recommendations as to how their respective divisions would operate without federal funding for child support enforcement and public

assistance. On March 11, 1998, Hank Hudson and Mary Ann Wellbank of the DPHHS presented their findings to the Subcommittee.

Options for Operating FAIM Without Federal TANF Funds (Appendix A)

The Child and Family Services Division (CFSD) began its presentation by identifying the variable factors to be considered in the design of the options. The variable factors were divided into three areas: program design, policy, and miscellaneous. Under "program design", the factors addressed were whether the program would be administered at the state level, the local level, a state/local mix, or by an entirely new approach that would provide assistance through other avenues. Under "policy", the factors included time limits, income and resource standards, full-family sanctions, a "family cap", earned income disregards, one-time employment related-payments, monthly work participation requirements, and two-parent eligibility. Under "miscellaneous", the factors considered were staffing levels, staffing reclassification, waiting lists, supplementary expenditures, and employment and training contracts.

After considering all of the variable factors and weighing those against the amount of money that would be available for the public assistance program, the CFSD created two options. **Option One** called for a statewide program. Caseloads would be reduced immediately by using a 2-year time limit applied retroactively. Tougher income and resource limits and broader sanctions would be imposed. FAIM and Protective Services staff would be laid off, child care would be reduced, and emergency services and employment and training programs would be eliminated. The result would be a \$289 a month cash benefit, regardless of family size, for no longer than 2 years. There would be no funding available for caseload increases. **Option Two** presented by the CFSD resembled Option One except that it assumes that tribes would leave the state program due to lack of funding and would instead file separate tribal family assistance plans. All of the other changes in **Option One** remain in **Option Two**. The result would be an increase in the monthly cash benefit, from \$289 to \$366. The consequences of implementing either **Option One** or **Option Two** are outlined in Table One on page 15.

The CFSD also looked at the impacts on other programs if either of the options were implemented by the state. For example, when cash benefits are reduced, food stamp, subsidized housing, and other assistance benefits not directly tied to

welfare reform increase. Some Medicaid recipients could lose their coverage because medically needy eligibility is tied to the cash assistance payment level.

The removal of millions of dollars in federal funds would have a significant impact on the state's economy. The Department of Labor and Industry projects that for every federal dollar eliminated from the state, 75 cents to \$1.00 additional spending power is lost to local economies. The impact would be even greater with the lay-off of state and county public assistance employees and employees of organizations that contracted to provide employment training to public assistance recipients.

There would also be a significant impact on federally subsidized housing availability. Currently, 31% of Montana's federally subsidized housing units are occupied by FAIM participants. Tenants pay 30% of their income towards rent. Tenant rent payments currently average between \$115 and \$160 per month. If a tenant's income level is reduced to zero or below a minimum level based on family size, the tenant has to pay only the minimum housing expense of \$25 per month; the housing program must make up the difference. As more funds are spent per housing unit by the housing program, the number of units decreases.

The CFSD was also concerned that by refusing the TANF block grant, the state would be dismantling a successful welfare reform project that has made considerable strides towards helping families achieve long-term independence from the welfare system. The result would be the creation of a permanent class of poor people with little or no hope for a brighter future.

TABLE ONE
Elements of Options One and Two and Their Consequences

ELEMENTS	CONSEQUENCES
Statewide public assistance program.	Statewide consistency.
Two-year time limit applied retroactively.	Many households would begin losing benefits immediately; state may face litigation over retroactive applicability; without retroactivity, necessary savings would not be achieved for several years.
Reduction of resource standards; counting of certain excluded assets.	Asset transfers and fraud could increase; community resources could be overwhelmed by extremely poor families.
Full family sanction.	Child protective service and domestic violence referrals might increase; noncompliant teens might be expelled from their homes.
Reduction of staff.	Termination costs (sick leave, vacation pay, etc.) would need to be paid; could reduce or eliminate first-year savings.
Elimination of supplementary expenditures.	Abuse and neglect tolerance levels would need to be raised, endangering children's health and safety; no money available in case of economic recession that results in increased caseloads; loss of emergency assistance could result in more families in crisis.
Discontinuance of all employment and training activities.	More difficult for families to leave welfare rolls quickly and permanently; greater recidivism.
Uniform benefit level.	Families could have less money for basic needs; larger families could experience increased levels of poverty.

Options for Operating a Child Support Enforcement Program Without Federal Funds /Appendix B/

The Child Support Enforcement Division (CSED) began its presentation with a discussion of all of the different “tools” that CSED uses in locating noncustodial parents who owe child support and in collecting child support. These tools include such things as applications for Social Security benefits, federal employment records, military records, Federal Case Registry, Federal New Hire Registry, Federal Parent Locate Service, Internal Revenue Service records, and interfaces with other state child support enforcement programs. CSED reported that most if not all of these tools would not be available for use by CSED if federal funding for the program is rejected. CSED also provided information showing the impacts of the loss of federal funding on its work. (See charts on pages 19 and 20.) Without federal funding, CSED would have approximately \$3.4 million with which to operate its services. CSED would have to lower its FAIM caseload by 53% and its non-FAIM caseload by 93%. The loss of the federal funding would also mean the loss of much of the ability of CSED to collect child support due to the loss of the above-mentioned tools. As a result, CSED would be spending \$3.4 million dollars to collect \$2.8 million.

CSED designed four options for operating a child support enforcement program without federal funds. **Option One** would focus on the broad social goals of a child support enforcement program: establishing paternities in out-of-wedlock births, recouping taxpayer investment in public assistance programs, and moving families off of the welfare system. CSED would be absorbed into the Child and Family Services Division, and its caseload would consist only of FAIM cases. The only service that would be available to non-FAIM cases would be in-hospital paternity acknowledgment. Services to FAIM families would include establishment of paternity, establishment of support and health insurance orders, and the enforcement of orders. Non-FAIM families would have to rely on the court system or on private collection agencies to enforce and collect child support.

Option Two would continue the current level of services to both FAIM and non-FAIM families. However, non-FAIM families would have to pay the full cost of the services. This would mean up-front application fees, advance fees for paternity establishment, fees for establishment of support orders, fees for enforcement actions, and a percentage of each collection when enforcement begins. Under this option, CSED would remain a division within the DPHHS.

Option Three is the most drastic because it would discontinue the child support enforcement program entirely. Both FAIM and non-FAIM families would be forced to rely on the court system or on private collection agencies for enforcing and collecting child support.

Option Four would mix and match child support enforcement services with the available funding. CSED would identify its top priorities as far its services are concerned. Once priorities were established, these priorities would be matched to the available funding, resulting in the design of the program. This option would take longer to implement and may involve some up-front costs. However, it may be the best option in terms of serving the needs of all custodial parents seeking help with child support.

Comparison of Federal vs. State Funded Child Support Enforcement Programs

Families Served	AFDC	NAFDC	TOTAL
Federal & State Funding SFY97	17,593	23,899	41,492
State Only Funding	8,200	1,675	9,875
Collections with Federal Funding	\$10,855,000	\$27,712,000	\$38,567,000
less IRS Tax Offset	(\$1,812,831)	(\$847,618)	(\$2,660,449)
less Collections from other States	(\$2,490,213)	(\$6,631,923)	(\$9,122,136)
less loss from Locate interfaces and Federal timelines	(\$2,073,290)	(\$9,157,450)	(\$11,230,740)
less reduction in caseload	\$4,478,666 53%	\$11,075,009 93%	\$15,553,675
Collections with State Only Funding	\$2,087,481	\$776,210	\$2,863,691

Child Support Enforcement Services on \$3.4 M General Fund

Given that our primary goals will be to establish paternity and support orders for FAIM cases, with \$3.4 M in General Funds, these are the cases we could serve.

Paternity and Establishment Cases per Worker = 500
Enforcement Cases per Worker = 400

	Total Cases	Breakout of Cases	% of Cases	Paternity Establish	Locate & Order Est	Enforce & Distribute	Total
Costs per Case				\$311	\$275	\$400	
FAIM Caseload - Current Support				5500			
CSED Cases from FAIM - Current & Arrears Support				8200			
				1400	17%	\$435,400	\$435,400
				3400	41%	\$935,000	\$935,000
				3400	41%	\$1,360,000	\$1,360,000
				8200	100%		\$2,730,400
Total Non- FAIM Cases				1675		\$670,000	\$670,000
Total CSED Cases for \$3.4 M General Fund	9,875					\$3,400,400	

General Conclusion: 4800 paternity and establishment FAIM cases and 3400 FAIM enforcement cases would cost about \$2,730,400 to work.
This would leave us \$670,000 to work non-FAIM enforcement cases.

PUBLIC HEARINGS

In order to allow the public ample opportunity to comment on the options designed by the DPHHS, the Subcommittee took public testimony on three different occasions. The first opportunity was at the Subcommittee's meeting on March 11 in Helena. The Subcommittee also held a public hearing on Tuesday, April 21 at the State Capitol in Helena and a METNET video conference later on that same day. The METNET conference involved sites in 12 locations, including Helena. In addition to the public hearings, the Subcommittee mailed out over 200 copies of the options, posted the options on the Legislative Services Division website, publicized the availability of the options and the public hearings through the legislative *INTERIM* newsletter and press releases, and accepted written testimony on the options. The Subcommittee wanted to ensure that people had the opportunity to know what the Subcommittee was doing and to comment on the options before they were presented to the 1999 Legislature.

The Subcommittee received more than 70 comments, oral and written from people all across Montana. The comments came from FAIM recipients; custodial parents; representatives of charitable organizations, churches, Indian tribes, and advocacy groups; labor unions; county commissioners and welfare directors; social workers; the Bureau of Indian Affairs; the League of Women Voters; legislators; day-care providers; Montana Legal Services; and private citizens. Their testimony was overwhelmingly in opposition to the state refusing the federal dollars for welfare and for child support enforcement. Many of those testifying stated that it was the responsibility of society to care for those unable to care for themselves. To turn back federal welfare funds would be to abdicate that responsibility. Others expressed concern that those who would suffer the most, if any of the proposed options were adopted, were children. County commissioners worried that counties would bear the brunt of the virtual shutdown of the FAIM program, and counties would not have enough resources to care for those people who would need assistance. Women's advocates were concerned that a lack of welfare and child support enforcement resources would make it almost impossible for women and their children to leave abusive relationships. More people would sink into poverty, and the resulting stress and tensions could result in more cases of spousal and child abuse. Private citizens who testified stated

that they were federal taxpayers and they wanted their tax dollars to come back to Montana and not go to another state.

Only one witness testified in favor of refusing the federal money. This witness believed that the child support enforcement provisions that were imposed on the states by PRWORA were unconstitutional and would most likely not survive a court challenge. This witness also felt that the Subcommittee had strayed from its original charge to find a way to operate a state welfare program without federal assistance and was moving towards a recommendation that the provisions of SB 374 should not be allowed to sunset. He urged the Subcommittee to adopt a plan for the funding of a welfare program and a child support enforcement program if federal funds are refused by the Legislature.

SUBCOMMITTEE RECOMMENDATIONS

Following the public hearings and the METNET video conference, the Subcommittee met on April 22 to review the public comments and to formulate its recommendations for the 1999 Legislature. Representatives of Senator Max Baucus and Senator Conrad Burns reported on the senators' efforts to address some of the concerns of the Legislature regarding the child support enforcement provisions of PRWORA. Senators Baucus and Burns are proposing legislation that would cap the amount of time that information could be kept in the database of the federal New Hire Registry. The proposal is to keep the information in the database for 2 years for people who are delinquent in paying child support and 1 year for everyone else. The proposal would also impose penalties on anyone who would use or disclose the information from the Registry in any unauthorized manner.

Mary Ann Wellbank of the Child Support Enforcement Division (CSED) presented the Subcommittee with a draft of a bill that the CSED hopes to have introduced in the 1999 legislative session. The bill lifts the termination date on the contested provisions of SB 374 and implements the new child support enforcement provisions passed by Congress in 1997. The Subcommittee entered into a debate over the merits of combining both issues in one bill. Some Subcommittee members believed that the issues should be presented in two bills so that legislators could distinguish between the old and the new provisions. Other members supported a single bill because both the sunsetted and the new provisions needed to be passed, and the same arguments would be made both for and against. Therefore, it would be easier to do it all at one time. The Subcommittee reached no conclusion as to whether there should be one bill or two bills. However, the Subcommittee wanted the final report to indicate that further revisions to the child support enforcement statutes would be forthcoming and would have to be passed by the Legislature in order for the state to continue receiving federal funding.

The Subcommittee then entered into a lengthy discussion about what recommendations it would make to the 1999 Legislature. Senator Lynch offered the first motion:

MOVED: That the Subcommittee support lifting the termination date on the contested provisions of Senate Bill No. 374. Those contested provisions are:

- ▶ the establishment of a Directory of New Hires;
- ▶ the automated access to financial records;
- ▶ the requirement to provide Social Security numbers on applications for a professional or occupational license, a marriage license, and a commercial driver's license; and
- ▶ the requirement to provide Social Security numbers on a decree of dissolution or a child support order.

Senator Lynch was concerned that any of the options presented by the DPHHS would, if adopted, have devastating effects on families in Montana, and, therefore, Montana should not jeopardize the receipt of federal funds for welfare and child support enforcement. Representative Arnott offered an amendment to Senator Lynch's motion that would require the Legislature to appropriate enough money for TANF. She felt this had not been done in the last legislative session, and it was imperative that the Legislature address this funding shortfall. Rep. Arnott's amendment failed on a vote of seven to one. Senator Lynch's original motion was then approved on a vote of six to two.

Senator Lynch then offered a second motion:

MOVED: That the Subcommittee support the new child support enforcement requirements if failure to implement them would jeopardize federal funding. The new requirements are for Social Security numbers on applications for all driver's licenses and for all recreational licenses.

Senator Lynch believed that if the new requirements would pose the same problems as the SB 374 requirements, then the Subcommittee should support their implementation as well. Some members of the Subcommittee argued that the original charge of the Subcommittee only addressed SB 374, and the Subcommittee should stick with that charge. Other members felt that the new requirements had not been sufficiently studied to the extent necessary to take a

position. Senator Hargrove moved that Senator Lynch's motion be tabled; Senator Hargrove's motion passed on a vote of seven to one.

Representative Arnott offered the following motion:

MOVED: That the Subcommittee request an Attorney General (AG) opinion on whether or not the CSED's modification of court-ordered child support payments is a violation of the separation of powers doctrine of the Montana Constitution.

Representative Arnott based her motion on a preliminary order issued on March 2 by District Court Judge Marc Buyske. Judge Buyske's order prevents the CSED from changing court-ordered child support payments. He believes that the state law giving the CSED the authority to change the payments without court approval is unconstitutional because it violates the Montana Constitution's separation of government powers. There was Subcommittee discussion as to who could request an AG opinion. After the Subcommittee determined that the request could only be made by the Speaker of the House or the President of the Senate, Representative Arnott withdrew her motion. (Judge Buyske has since ruled the state law unconstitutional but has stayed his order to allow the current system to remain in operation while the case is appealed to the Montana Supreme Court.)

Representative Arnott offered a second motion:

MOVED: That the Subcommittee initiate action to implement a program in Montana similar to the Mississippi "Faith and Families" program.

"Faith and Families" is a welfare reform partnership between state government and the Mississippi faith community. It does not replace the state TANF program, and state funding does not go to the churches for the program. It is strictly a voluntary program; churches are not required to participate. It was implemented through the Mississippi governor's office and did not require any legislation. A similar program has been implemented in Texas, and Representative Arnott believed Montana could benefit from such a program. Senator Swysgood ruled that the motion was out of order because it was beyond the scope of the Subcommittee's charge. He suggested that Representative Arnott present the proposal to the Oversight Committee on Children and Families as that was a more appropriate forum.

The Subcommittee then spent some time discussing the substance of the final report. It was decided that the final report should be a simple and straightforward analysis of the Subcommittee's work, emphasizing the following elements:

- ▶ the Subcommittee's recommendation;
- ▶ the options identified by DPHHS;
- ▶ the amount of time set aside for public testimony; and
- ▶ the amount and nature of the public testimony received.

CONCLUSION

Senate Bill No. 374 generated intense and often acrimonious debate during the final days of the 1997 legislative session. When the dust had settled and the bill had finally passed, the contentious issues were settled, but only for 2 years. The Legislature held out hope that Congress, the courts, or the federal Department of Health and Human Services would address its concerns either through legislation, legal decisions, or exemptions. However, the legislative leadership also recognized that the contentious issues that so divided the 1997 Legislature would most likely have to be revisited by the 1999 Legislature and it would be in everyone's best interest to explore the options available should the 1999 Legislature choose not to reenact the contested provisions of SB 374 and, as a result, forego federal funding for welfare and child support enforcement.

When the Subcommittee on Welfare and Child Support Enforcement Programs met, for the first time, on December 9, 1997, the members were acutely aware of the task ahead of them. That task was made even more important because Congress had imposed additional requirements that the Subcommittee knew would not meet with the favor of many legislators, and the DPHHS had been granted two exemptions but had been denied others.

The Subcommittee recognized that the loss of federal funding would have a major impact on Montana's welfare reform efforts as well as on the state's ability to assist custodial parents in collecting child support payments. The Subcommittee also understood that the opposition to SB 374 in 1997 will in all likelihood be present in 1999 when DPHHS offers its legislation to lift the termination date on the remaining contested provisions and to enact the new provisions. Therefore, it was incumbent upon the Subcommittee to make it known to the Legislature exactly what options were available should the Legislature reject the federal funding by its failure to enact the child support enforcement provisions. In its recommendations to the Legislature, the Subcommittee chose not to endorse any of the options. Rather, the Subcommittee chose simply to present these options to the Legislature so that individual legislators will have additional information to help them in their decisionmaking. At the same time, as a result of its review of the options and the

overwhelming opposition to the options by those who testified, the Subcommittee recommends that the 1999 Montana Legislature lift the termination date on the contested provisions of Senate Bill No. 374.

MINORITY REPORT

The following minority report was submitted by Representative Peggy Arnott, a member of the Subcommittee on Welfare and Child Support Enforcement Programs.

ISSUES

The following issues should be reviewed carefully before accepting the recommendation of the Subcommittee to lift the termination date on the contested provisions of Senate Bill No. 374:

- ◆ The welfare caseload has been reported to have been reduced by 40%, but there has not been a reduction of one staff person. Generally, people want a reduction in welfare, but as the welfare caseload declines, there should also be a proportionate reduction in the number of employees working with the welfare population.
- ◆ A 1998 report by the Legislative Audit Division found that the accounting system of the Department of Public Health and Human Services (DPHHS) was plagued with inaccuracies and was unreliable, resulting in accounting mistakes involving \$85 million. Accountability certainly ought to be a priority before the Legislature appropriates millions of dollars to a system with those sorts of identified problems.
- ◆ The Indian tribes are eligible to apply for funding to administer and operate their own TANF programs. Although there has been a reported 40% decline in welfare cases, the tribal welfare roles have remained largely static. Providing the opportunity for tribes to operate their own programs might be the best alternative for state and tribal concerns.
- ◆ Mandates come with the acceptance of federal money. The DPHHS admits that its federal funding may already be in jeopardy if there is a

shortfall because the Legislature did not appropriate the full amount for the maintenance of effort that is necessary for federal backfill in case of a shortfall.

- ◆ The Child Support Enforcement Division is admittedly in violation of federal mandates because it is not collecting in three counties due to Judge Marc Buyske's judicial challenge to the DPHHS's authority to change court-ordered child support payments. This places the DPHHS in jeopardy of losing its federal funding.
- ◆ By recommending that the Legislature lift the termination date in Senate Bill No. 374, the Subcommittee has abdicated its charge to evaluate the FAIM program's effectiveness, to review the compliance requirements of the federal government, and to prepare for the possibility that the contested provisions of SB 374 may not be reenacted by the 56th Legislature.

OPTIONS

The following options should be considered by the 56th Legislature prior to the reconsideration of Senate Bill No. 374:

- ◆ Limit full welfare benefits to 1 year. For each year thereafter that a family is on welfare, there will be a corresponding decrease in benefits.
- ◆ Allow local governments to operate their own welfare programs.
- ◆ Require a 1-year waiting period before people moving into Montana from another state are eligible for welfare.
- ◆ Encourage and assist tribal governments to operate their own welfare programs.

MATERIALS AVAILABLE

The following materials relevant to the Subcommittee on Welfare and Child Support Enforcement Programs are available from the Legislative Services Division.

Minutes of Meetings and Public Hearings

Minutes are available for the following Subcommittee meetings and public hearings:

December 9, 1997
January 27, 1998
March 11, 1998
April 21-22, 1998

Staff Reports and Memoranda

Study Plan for the Subcommittee on Welfare and Child Support Enforcement Programs, December 1997, Connie Erickson, Legislative Services Division

State Legal Obligation to Provide Child Support and Public Assistance Programs, January 6, 1998, David S. Niss, Legislative Services Division

Fiscal Summary for the Child Support Enforcement Division and the Public Assistance Program of the Montana Department of Public Health and Human Services, 1999 Biennium, January 20, 1998, Pam Joehtler and Joanne Chance, Legislative Fiscal Division

TANF Funding for Indian Tribes, March 4, 1998, Connie Erickson, Legislative Services Division

South Dakota TANF Program, March 11, 1998, Connie Erickson, Legislative Services Division

Other Reports and Memoranda

A Chronology of Alberta Welfare Reform, Alberta Ministry of Family and Social Services

Background and History of DPHHS-CSED Proposed Fee Regulations, April 21, 1998, Mary Ann Wellbank, Department of Public Health and Human Services

Constitutionality of Durational Residency Requirements for Public Assistance and Other Welfare Benefits, October 1987, Mary K. McCue, Legislative Services Division

Faith & Families of Mississippi, March 23, 1998, Office of the Governor, State of Mississippi

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APPENDIX A



Report to The:

Welfare and Child Support Enforcement Programs Committee



Options for:

Operating FAIM Without Federal TANF Funds

Prepared by:

**Child and Family Services Division
March, 1998**

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OPTIONS FOR OPERATING WITHOUT FEDERAL TANF FUNDS

→ CURRENT PROGRAM STRUCTURE AND EXPENDITURES:

(Costs include federal TANF, state general and county expenditures.)

<u>Components</u>	<u>Costs</u>
Cash assistance benefits *	\$31,393,000
Recession reserve/county projects	8,675,000
WoRC contracts (employment and training) *	4,800,000
Child care transfer	5,000,000
Field staff (assumed counties)	2,288,000
Field staff (nonassumed counties)	1,997,000
Protective services field staff	2,173,000
Emergency assistance benefits	941,000
Supportive services *	705,000
Tribal assistance	308,000
Community worksite development	375,000
TEAMS processing/other automation costs	812,000
Administrative costs **	<u>1,560,000</u>
	\$61,027,000

* All costs are SFY 1997, with the exception of cash assistance benefits, WoRC contract and supportive services expenditures which are SFY 1998 projections.

** Includes Department, Child and Family Services Division, Quality Assurance Division, Operations and Technology Division administrative service costs.

→ CURRENT BENEFIT SNAPSHOT:

Maximum monthly benefit (household of three): \$450

Average monthly per case benefit (all households):	365
Average monthly per case benefit (tribal only):	400

→ **VARIABLE FACTORS:**

(A) PROGRAM DESIGN

(1) Statewide

This design would consist of one statewide assistance program, with consistent policies and procedures established at the state level. It will be described in much more detail below.

(2) State/local mix

This design would consist of a small statewide program for "unemployable" recipients (those who would have fallen into the 20% hardship exemption category). Remaining monies would be allocated to counties to serve whomever they chose through whatever method they deemed appropriate (diversion payments, case management, short-term assistance, etc.).

(3) Local

Under this design all money would be block granted to communities, who would then be responsible for developing their own programs. Broad performance standards (such as serving needy families, promoting family stability, and encouraging employment) would have to be met to continue receiving funds.

(4) Completely new approach

Under this design, the available funding would be used to provide assistance through other avenues; e.g. a State Earned Income Tax Credit, a Supplemental Security Income Interim Assistance Program, a modified Unemployment Insurance program, or an allocation to community block granting agencies, who would then distribute the money to local service providers.

(B) POLICY

- (1)** The existing 5-year time limit could be immediately reduced to 2 years. Some or all of the existing timeclock exemptions could be eliminated.
- (2)** Tribes could be convinced to file tribal family assistance plans for fiscal reasons. (If they were to remain under the state's plan, there would be very little state and no federal money available.) The state could further encourage this action on the part

of the tribes by making a nominal level of state matching funds available.

- (3) Gross monthly income standards could be reduced from present levels. (E.g. \$1060 per month for a household of three.)
- (4) Resource standards could be reduced from the current \$3000 level. Additionally, certain excluded assets (such as one vehicle per case) could be counted.
- (5) The current monthly work participation requirements could be increased to mirror full-time employment.
- (6) Barriers to two-parent eligibility could be reimposed or two-parent families could be deemed completely ineligible for cash assistance.
- (7) Full-family sanctions could be imposed instead of removing only the needs of the noncompliant individual.
- (8) A "family cap" could be imposed, whereby cash assistance benefits would not be increased for families who had additional children once on the welfare rolls.
- (9) The payment amount could be reduced from the current 40.5% of poverty level.
- (10) Earned income disregards could be decreased. (Currently Montana disregards the first \$200 and 25% of each wage earner's income when determining eligibility and benefit amount in the Pathways program.)
- (11) One-time employment-related payments could be eliminated in both the Pathways and Job Supplement programs.

(C) MISCELLANEOUS

- (1) Staffing levels could be reduced.
- (2) Remaining county staff could be reclassified, which might result in downgrading due to decreased complexity of responsibilities.
- (3) Waiting lists could be generated as needed.
- (4) Supplementary expenditures for items such as Quality Assurance staff, Protective Services field staff salaries, emergency assistance, child care, recession reserve/county projects, supportive services, tribal welfare reform transition, and community worksite development could be eliminated.
- (5) Employment and training contract expenditures could be eliminated. These services could instead be provided by the county office of public assistance or not provided at all.

→ **OPTION ONE:**

A statewide program would be operated. Caseload would be reduced immediately by using a two-year time limit applied retroactively. This action, combined with tougher resource limits and broader sanctions, would reduce the caseload more than 50%. Additional savings would be realized by laying off FAIM and Protective Services staff, reducing child care funding by \$5 million, and eliminating emergency services and employment and training programs. These changes would allow for a \$289 per month benefit, regardless of family size, for no longer than two years. No funding would be available for caseload increases.

This option would include selection of the following variables at the level indicated:

1. A somewhat modified statewide public assistance program would be maintained.
2. The existing five-year time limit would be immediately (July 1, 1999) reduced to two years. There would be no exemptions from the time limit. Selection of this policy factor would result in the elimination of 50% of the existent caseload. Presuming a starting caseload of 6700 at a monthly benefit level of \$365 per case, the resultant savings would be \$14,673,000.
3. Resource standards would be reduced from the current level of \$3000 to \$2000. Additionally, certain excluded assets such as vehicles and life insurance policies would be counted either partially or in their entirety. Presuming a 1% reduction of the remaining 3350 cases, the resultant savings would be \$148,920.
4. Upon the second occurrence of noncompliance, a full family sanction would be imposed. Presuming that 2.8% of the remaining 3317 cases would be sanctioned a second (or third) time in any given month, the resultant savings would be \$411,093.
5. Because of reduced financial assistance caseloads, Public Assistance Bureau staffing levels would be reduced. (A certain level of staffing would have to be maintained to continue administering the Medicaid and Food Stamp programs.) Reducing the staff from a current level of 420 to the minimally required level of 350 would result in a yearly savings of \$938,000 (\$5,627,000 - 4,689,000).
6. Supplementary expenditures for Quality Assurance staff, Protective Services field staff salaries, emergency assistance, child care, recession reserve/county projects, supportive services, tribal welfare reform transition, and community worksite development would be eliminated. The reduced expenditures would total \$18,395,000.
7. Elimination of all employment and training activities, including those provided under WoRC contracts and those rendered by county staff, would result in reduced expenditures totaling

\$4,800,000.

8. A uniform benefit level of \$289 per month (regardless of family size) would be established for the remaining 3224 cases. This amount is determined by subtracting salary and TEAMS costs from available state general fund and county contributions.

→ **OPTION TWO:**

This plan resembles option one, except that it assumes tribes would leave the state program due to lack of funding and would instead file separate tribal family assistance plans with the federal government. \$2.5 million would be provided for this purpose. (The state has no authority to require tribes to follow this course.) All other cuts mentioned in option one remain. These changes would allow for a \$366 per month benefit, regardless of family size, for no longer than two years. No funding would be available for caseload increases.

This option would include selection of the following variables at the level indicated:

1. A somewhat modified statewide public assistance program would be maintained.
2. Tribes would be convinced to file tribal family assistance plans primarily for fiscal reasons. (If they were to remain under the State's plan, there would be very little state and no federal money available.) The state would further encourage this action on the part of the tribes by making \$2.5 million state matching funds available. Tribes filing tribal family assistance plans for their membership would result in an overall statewide caseload reduction of 2500 cases. The remaining caseload would number 4200.
3. The existing five-year time limit would be immediately (July 1, 1999) reduced to two years. There would be no exemptions from the time limit. Selection of this policy factor would result in the elimination of 50% of the remaining caseload. Presuming a starting caseload of 4200 at a monthly benefit level of \$365 per case, the resultant savings would be \$9,198,000.
4. Resource standards would be reduced from the current level of \$3000 to \$2000. Additionally, certain excluded assets such as vehicles and life insurance policies would be counted either partially or in their entirety. Presuming a 1% reduction of the remaining 2100 cases, the resultant savings would be \$91,980.

5. Upon the second occurrence of noncompliance, a full family sanction would be imposed. Presuming that 2.8% of the remaining 2079 cases would be sanctioned a second (or third) time in any given month, the resultant savings would be \$254,969.
6. Because of reduced financial assistance caseloads, Public Assistance Bureau staffing levels would be reduced. (A certain level of staffing would have to be maintained to continue administering the Medicaid and Food Stamp programs.) Reducing the staff from a current level of 420 to the minimally required level of 315 would result in a yearly savings of \$1,407,000 (\$5,627,000 - 4,220,000).
7. Supplementary expenditures for Quality Assurance staff, Protective Services field staff salaries, emergency assistance, child care, recession reserve/county projects, supportive services, tribal welfare reform transition, and community worksite development would be eliminated. The reduced expenditures would total \$18,395,000.
8. Elimination of all employment and training activities, including those provided under WoRC contracts and those rendered by county staff, would result in reduced expenditures totaling \$4,800,000.
9. A uniform benefit level of \$366 per month would be established for the remaining 2079 cases. This amount is determined by subtracting salary and TEAMS costs from available state general fund and county contributions.

→ **CONSEQUENCES OF IMPLEMENTING OPTIONS ONE OR TWO:**

The expected consequences of implementing either option one or two are as described below.

1. **A somewhat modified statewide public assistance program would be maintained.**
CONSEQUENCE: Statewide consistency.
2. **Tribes would be convinced to file tribal family assistance plans.**
CONSEQUENCE: Because of a much lower availability of funding, tribes would likely choose to file tribal family assistance plans. In order to encourage this action, the state could choose to continue contributing state matching dollars in the approximate amount of \$2.5 million general fund per year.
3. **The existing five-year time limit would be immediately (July 1, 1999) reduced to two years. There would be no exemptions from the time limit.**

CONSEQUENCES: If the law were applied retroactively (that is, months already showing on the individual's timeclock would remain at the time the new time limit took effect), many households who had been receiving benefits continuously since TANF timeclocks began

would immediately lose eligibility. By eliminating timeclock exemptions, everyone would have "true" clocks and would lose eligibility after 24 months regardless of any mitigating factors slowing their movement off cash assistance.

If two-year time limits were implemented retroactively, the neediest, most highly-barriered participants would be the first to have benefits terminated because they constitute the majority of long-term recipients.

The state might face a lawsuit, especially if the law were applied retroactively as proposed above. (If it were not applied retroactively, savings would not be achieved for several more years and therefore could not be counted for purposes of this plan.)

4. Resource standards would be reduced and certain excluded assets would be counted.

CONSEQUENCES: Asset transfers and fraud could increase under this scenario as families were forced to choose between owning a reliable vehicle and meeting housing and other necessary expenses. Community resource providers could be overwhelmed when extremely poor families seek their services.

5. A full family sanction would be imposed.

CONSEQUENCES: Families could be severely impacted because of the actions of one individual. Child protective service and domestic violence referrals might increase, noncompliant teens could be sent from the home to fend for themselves, community resource providers could be overwhelmed, and other ripple effects might be felt.

6. Public Assistance Bureau staffing levels would be reduced.

CONSEQUENCE: Termination costs (sick leave, vacation pay, etc.) would still need to be paid and could reduce or eliminate first-year savings.

7. Supplementary expenditures would be eliminated.

CONSEQUENCES: If Quality Assurance staff were not funded, benefit accuracy could suffer. If Protective Services staff were not funded, abuse and neglect tolerance levels would need to be raised. As a result, children's health and safety would be endangered. Eliminating funding for emergency assistance would remove one avenue of respite available to families in crisis. This, in turn, would place additional strain on community resource providers.

Without adequate child care funding, achievement of self-sufficiency becomes much more difficult, if not impossible. If no "rainy day funds" existed, recession would result in increased caseloads for which no benefit dollars would be available. If supportive service funds were not available, many families might find it much more difficult to participate in required activities. This would make it more difficult for them to leave the welfare rolls quickly and permanently. Ultimately these short-term cost reduction measures could result in greater recidivism and longer periods of benefit receipt.

Eliminating tribal assistance funding would make the tribes' transition to welfare reform more disjointed and consequently, much lengthier. Elimination of community worksite development funding would result in a lesser number of work experience and actual job sites being available to participants.

8. All employment and training activities would be discontinued.

CONSEQUENCES: If employment and training activities were discontinued, many families would find it much more difficult to leave the welfare rolls quickly and permanently. Ultimately this could result in greater recidivism, longer periods of benefit receipt, and greater long-term costs to the state.

9. A uniform benefit level would be established.

CONSEQUENCES: Depending on where the benefit level were established, families could have less money available to meet basic needs. This could, in turn, cause greater strain on community resource and social service providers.

Establishing one payment amount regardless of household size does not take into account the greater expenses faced by larger families and could result in those families experiencing increased levels of poverty.

→ **CONSEQUENCES OF CHOOSING OTHER VARIABLES :**

The expected consequences of choosing the other variables listed are as described below.

1. A state/local mixed design could be implemented.

CONSEQUENCE: A consequence of this and the approaches mentioned below could be inconsistent program availability and assistance levels across the state.

2. A completely local program design could be implemented.

CONSEQUENCES: The inconsistencies noted above could result. Additionally, local communities would be burdened with detailed program design and fiscal responsibility. The state would be required to develop an elaborate review process for monitoring compliance with performance standards.

3. An entirely new approach could be taken to providing services.

CONSEQUENCES: The inconsistencies noted above could result. Additionally, this new approach to service provision would require the creation of totally new benefit, policy, automation, and budgeting systems.

4. Gross income standards could be reduced from present levels.

CONSEQUENCES: Certain households would no longer qualify for cash assistance if the gross income standards were reduced. The actual caseload impact would depend on how low the new standard were set.

Lowering the standards so as to reduce caseload could result in the swamping of community resources. Also, foster care and other social service costs could increase because parents might be unable to afford to adequately care for their children.

5. Monthly work participation requirements could be increased.

CONSEQUENCES: Some families might voluntarily leave the program if work requirements were increased. Others might leave through sanctions for noncompliance with the increased requirements. The caseload impact would be difficult to estimate because we cannot predict how families would react.

If the state continued to guarantee child care assistance during participation hours, child care costs could dramatically increase. Also, counties might not be able to find sufficient work-related activities for participants to meet the 35-40 hour-per-week requirement.

6. Barriers to two-parent eligibility could be reimposed or two-parent families could be deemed completely ineligible for cash assistance.

CONSEQUENCES: Under FAIM, the state has experienced a 19% increase in the number of two-parent families receiving assistance (though they remain a small percentage of the overall caseload). It seems reasonable to assume many or all of these families could be removed from the rolls if two-parent family eligibility were tightened or eliminated.

However, changing the current policy could encourage family breakup or misrepresentation of household composition to establish program eligibility.

7. A "family cap" could be imposed.

CONSEQUENCES: It is difficult to predict what savings this would generate. Other states have implemented family caps, but reported results have been mixed. Concerns raised in other states include increased abortion rates and more children moving into foster care because families cannot afford to properly care for them.

8. Earned income disregards could be decreased.

CONSEQUENCES: Under FAIM, the amount of earned income disregarded (not counted when determining eligibility and benefit amount) was increased to encourage employment. It is difficult to estimate the exact impact this change would have without first setting the new disregard amounts.

A decrease in income disregards could have the perverse effect of discouraging employment. If families ended up with less money by working than they would have had by remaining on assistance, they would be unlikely to choose employment. This action would contribute to less actual work experience and potentially less success at becoming self-sufficient in a timely manner.

9. One-time employment-related payments (ERPs) could be eliminated.

CONSEQUENCES: Elimination of ERPs could help achieve limited savings in the near future, but the effect would probably be minimal since the payments are only available once in a lifetime and are used relatively infrequently.

In the long run, eliminating these payments could actually increase costs because they serve to divert families from cash assistance and because families must give up two months of cash assistance eligibility for every one month of employment-related payment received. If the payments were not available, families might feel they had no choice but to begin or continue receiving cash assistance.

10. Remaining county staff could be downgraded.

CONSEQUENCES: Upon conversion to FAIM, county staff were given classification upgrades because of the new case management and negotiation responsibilities of their positions. If these complexities were removed, the positions could possibly be downgraded and reduced staff costs realized. An estimate could be provided if necessary.

Trained staff could decide to seek other, higher-paying employment. This would adversely impact families who are relying on highly-skilled staff to assist them in a rapid transition off time-limited cash assistance.



OTHER CONSEQUENCES:

Other anticipated consequences of choosing any combination of the variables listed are as described below.

1. WAITING LISTS

Because capped general fund would be treated like a block grant and not an entitlement program, waiting lists might need to be maintained. Once program design and funding were finalized, families could be served until the money began to run low and then a waiting list would have to be used to decide who would receive cash assistance. Priorities

would need to be determined (for example, should it be "first come, first served", or should level of need be taken into account?). Those who were not served because of insufficient funding could end up overwhelming community resource and social service providers.

2. RIPPLE EFFECT

Any cash assistance program change impacts other programs, the Department and communities in a variety of ways. For example, when cash assistance benefits are reduced (for example, by decreasing earned income disregards or the payment standard), food stamp, subsidized housing and other assistance benefits increase. Many aged, blind and disabled individuals could lose Medicaid coverage because medically needy eligibility is tied to the cash assistance payment level. It is unclear at this point what steps would have to be taken to maintain medically needy coverage for these individuals.

3. MAIN STREET ECONOMY

Removing millions of dollars from the state's economy would obviously impact every community. Cash assistance recipients spend their benefit dollars locally on such things as food, shelter, clothing, and household goods. If benefits were reduced or terminated (as must be the case if TANF funds are rejected), participants would have less money to spend in their communities. The Department of Labor and Industry projects for every federal dollar eliminated from the state, \$.75 - \$1.00 additional spending power is lost to local economies. In other words, the dollar amount lost by forfeiting federal money would double the impact on Montana's economy. This effect would be magnified due to the resulting layoffs of county public assistance and WoRC staff.

4. COMMUNITY RESOURCE EFFECTS

A. Housing

Of the 14,100 federally subsidized housing units available in Montana, 31% are occupied by FAIM participants, 40% by the disabled and elderly, and the remaining are occupied by working poor families at risk of returning to welfare. In all these programs, 30% (ranging between \$115-160 per month) of the tenant's income is required for rent. Each program has a waiting list of one to five years. The Montana Department of Commerce program has over 5,500 families waiting to receive subsidized housing. Tribal housing authorities report long waiting lists and indicate many of their units are occupied by two or three families. If FAIM cash grants were cut significantly, an estimated reduction of over 1,000 subsidized units would occur. When a tenant's income level is reduced so he or she only has to pay the minimum housing expense of \$25 per month, the program must make up the difference to the landlord. This means more funds are spent per housing unit, which in turn, decreases the number of units which can be funded.

B. Religious organizations

Faith-based organizations (Montana Catholic Conference and Montana Association of Churches) report they are operating at capacity and have no expandable resources. Though they are not connected by a network in Montana, but rather respond on an individual community-needs basis, they believe they are providing the maximum amount of support to needy families within current resource levels. They are not organized to do the work the current TANF-FAIM project is doing.

C. Salvation Army/Good Samaritan/St. Vincent de Paul

Community-based organizations report they are operating at capacity and turning away needy individuals requesting services. The Samaritan House in Kalispell provides shelter and low income housing and is undergoing expansion, but currently has limited capacity and turns away an average of 25 people every month. The Good Samaritan Thrift Store in Helena also provides assistance with basic needs. It receives the bulk of its funding from the four Catholic parishes in Helena, furthering the demand on the faith-based community. Organizations such as the Salvation Army and the Good Samaritan play a major role in meeting the needs of the poor in Montana's communities. Loss of federal funding for cash grants would require increased contributions by other agencies (United Way, county poor funds). Private donations would also be necessary if these services were to have even the slightest chance of meeting the increased demands.

D. Food banks

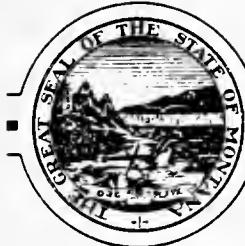
The Montana Food Bank Network reports they are operating at capacity. Additional fresh food may be available, but limited trucking resources prevent the import and distribution of food available from other states. Decreased cash assistance grants would potentially increase the demand on the food banks as well.

5. SUCCESSFUL PROGRAM DISMANTLED

Studies conducted in other states with successful welfare reform projects (like Montana's FAIM) have consistently shown an up-front investment is necessary to help families achieve long-term independence from the welfare system. By choosing not to continue making this investment, Montana could find itself with more families needing public assistance for longer periods of time.

APPENDIX B

**DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**



MARC RACICOT
GOVERNOR

LAURIE EKANGER
DIRECTOR

STATE OF MONTANA

FAX (406) 444-1370
(406) 442-7278

3075 N MONTANA, SUITE 112
PO BOX 202943
HELENA, MONTANA 59620-2943

"What would the CSED look like if funding was cut by two thirds?

**March 11, 1998 Presentation to the
Subcommittee on Welfare and Child Support Enforcement Programs
Prepared by Mary Ann Wellbank, Administrator
Child Support Enforcement Division**

Option 1: Focus on the broad social goals of the program: establishing paternities in out-of wedlock births, recoup taxpayer investment in public assistance programs, move families off welfare system. CSED is absorbed into Child and Family Services Division.

The department would continue funding current CSED in-hospital paternity acknowledgment program. This program has proven successful and cost effective in establishing paternity. In out of wedlock births, hospital personnel ask the parents to acknowledge the paternity of the child. Paternity acknowledgment has many broad social benefits.

Other than the in-hospital paternity acknowledgment program, no other services would be available to non-FAIM recipients. The caseload would consist entirely of FAIM cases. Services would include establishment of paternity, establishment of support and health insurance orders, and enforcement of orders.

There would be costs associated with discontinuing service to non-FAIM cases, and there are only a limited number of options available to non welfare recipients who currently rely on state child support services. Would place additional burden on district court system.

Option 2: Similar to Option 1, except CSED remains a division within the department. Continue current level of CSED services to non-FAIM families who choose to bear the full cost of these services. Charge up-front application fees, advance fees for paternity establishment (costs vary depending on steps required), fees for establishment of support orders, fees for enforcement actions, percentage of each collection when enforcement commences.

There would be costs associated with informing the public of the change, and establishing a comprehensive cost recovery system. Would place additional burden on district court system.

Option 3: Discontinue CSE program entirely

There would be costs associated with discontinuing services. Would place additional burden on district court system.

Option 4: Mix and Match CSE Services/Funding

After comprehensive impact analysis of all possible options, identify top priorities. Would be costs associated with study, implementation of comprehensive cost recovery plan, computer system needs.

125 copies of this public document were published at an estimated cost of \$3.60 per copy, for a total cost of \$450.00, which includes \$450.00 for printing and \$.00 for distribution.